



## *OCPF Online*

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Boston, MA 02108*

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### Advisory Opinion

November 18, 2003  
AO-03-07

Senator Cheryl A. Jacques  
370 Country Way  
Needham, MA 02492

Re: Candidate Committee Expenditures

Dear Senator Jacques:

This letter is in response to your November 6, 2003, request for guidance regarding expenditures by your campaign Committee as you prepare to leave elected office.

You have indicated that you intend to resign your Senate seat in order to assume a position in the private sector. In light of this you have asked whether certain expenditures by your campaign Committee would be consistent with the Massachusetts campaign finance law, M.G.L. c. 55. Expenditures that you seek to make prior to your resignation include payments for a holiday party for staff and supporters, money gifts for years of service to staff members, and holiday gifts for supporters and staff. Anticipated expenditures after your resignation include contributions to other Massachusetts and federal candidates, charitable contributions, and gifts, food and entertainment expenses for staff, supporters and political contacts.

Your questions deal with the extent to which your candidate Committee may remain in existence and make expenditures after you leave office. Instead of utilizing a question and answer format, I have addressed this issue as well as your specific questions in the following discussion.

Your Committee may remain in existence after you leave office as long as you believe you may seek nomination or election to public office in the future. As long as this is the case, the Committee's continued activity would be appropriate because you would still qualify as a "candidate" for the purposes of the campaign finance law. See M.G.L. c. 55, § 1; also AO-93-12.

The standard for Committee expenditures does not change after you leave office. Specifically, all Committee expenditures must continue to be made "to enhance your political future," but not primarily for your or anyone else's personal use. See M.G.L. c. 55, § 6. This includes expenditures

for food and entertainment, as well as the other types of expenditures you inquired about, which are discussed in more detail below.

For example, it is consistent with Section 6 for your Committee to host a holiday party before you leave office for staff and supporters. See AO-94-08 and AO-85-02. In addition, your Committee may make political and charitable contributions, subject to the relevant provisions of M.G.L. c. 55 and 970 CMR, after you leave office. The Committee could make up to \$1,500 per year in political contributions to Massachusetts candidates, with no more than \$100 per calendar year going to any one candidate; there is no annual limit on contributions by the Committee to PACs, party committees or ballot question committees.<sup>1</sup> See M.G.L. c. 55, § 6. Contributions to federal candidates are permissible subject to federal law.

Charitable donations must comply with the criteria set forth at 970 CMR 2.06(3)(a), which limits such donations to circumstances where: (1) the contribution is made to an entity subject to M.G.L. c. 12, § 8(f); M.G.L. c. 67 or M.G.L. c. 180; (2) neither the candidate, treasurer, or any Committee official is a trustee, officer, principal or beneficiary or involved in any manner in the operation of the entity; (3) neither the candidate, treasurer, or any Committee official is related by blood or marriage to any trustee, officer, principal or beneficiary of the entity; (4) as a customary and usual practice, the Committee has previously made charitable donations; and (5) the candidate or Committee will receive publicity and foster political goodwill as a result of making the contribution.

As for monetary gifts or payments to staff, this office consistently advises that payments to staff members may only be made “in a reasonable manner solely for work actually done” where the committee has maintained detailed accounts and records to document the hours worked and the compensation paid to all staff. See 970 CMR 2.05(2)(i)<sup>2</sup> and AO-98-20. Moreover, campaign funds may not be used to pay staff for work that was otherwise paid for by a government entity. To provide a staff member with a monetary payment where either no services were provided or where the individual has already been compensated in the course of his or her employment would not be consistent with M.G.L. c. 55, § 6. Accordingly, your Committee may not provide monetary gifts or payments to your staff in appreciation for years of service, as a retroactive payment for past services or to supplement their present income.

Non-monetary gifts, on the other hand, to staff members and supporters may be appropriate. See AO-94-15 and AO-91-01. Campaign finance regulations at 970 CMR 2.06(3)(b) permit campaign expenditures for gifts and flowers of a reasonable value to individuals where the candidate or Committee: “will receive publicity and foster political goodwill as a result of making the gift or contribution, but provided further that (a) the candidate or treasurer has no personal relationship with the individual or his family; and (b) the gift is appropriate to the occasion which has prompted the gift; and (c) making such a gift is [the] usual and customary practice of the political committee; and (d) the gift would not be made but for the interest in it enhancing the political future of the candidate.”<sup>3</sup>

In AO-94-15, this office elaborated on the above criteria, stating that a gift of a “reasonable value” means a gift “which is within the range of what is generally accepted to be average for the

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<sup>1</sup> However, M.G.L. c. 55, § 5A, which prohibits a candidate from financing a PAC, would preclude the Committee from providing a “substantial portion” of the funds received by any one PAC. See AO-95-01.

<sup>2</sup> Made applicable to legislative candidates by 970 CMR 2.06(3).

<sup>3</sup> 970 CMR 2.06(3)(b)(1) establishes additional requirements where gifts are made to campaign workers at the conclusion of a campaign.

occasion prompting the gift.” The opinion further noted, “gifts of substantial value are generally not appropriate.”

Subject to the foregoing, it would appear to be appropriate for the Committee to purchase non-monetary holiday gifts of a reasonable value for you to present to your staff and supporters prior to your resignation. Likewise, Committee expenditures for reasonable non-monetary gifts for staff members for years of service would be consistent with the campaign finance law if the above criteria were met. After you leave office, the Committee should continue to use 970 CMR 2.06(3)(b)(2) and this office’s opinions as a guide for future non-monetary gifts to supporters and political contacts.

Please note that this opinion is issued solely within the context of the Massachusetts campaign finance law and is based on the representations made in your letter and to OCPF’s staff. Please contact us in the future if you have further questions regarding any aspect of the campaign finance law.

Sincerely,

A handwritten signature in dark ink, reading "Michael J. Sullivan", followed by a vertical line.

Michael J. Sullivan  
Director

MJS:bp